

ORDER SHEET**IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT**

WP No.13141/2020

Ali Zayyam Tayyab etc. **Versus** Federation of Pakistan etc.

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge and that of parties or counsel, where necessary.
-------------------------------	------------------------------	---

17.3.2020

Petitioners By:Barrister Muhammad Umar Riaz and Ms. Bushra Saqib,
Advocates for the Petitioners.Syed Mansoor Ali Bukhari, Advocate for the Petitioners
in WP No.14319/20.Mr. Aurangzeb Mirza and Mr. Muhammad Irfan Hanjra,
Advocates for the Petitioner in WP No.13515/20.Mr. Sahir Mahmood Bhatti, Advocate for the Petitioners
in WP No.13516/20.Barrister Tariq Saeed Rana, Advocate for the Petitioner
in WP No.14082/20.Mr. Omer Farooq Khan, Advocate for the Petitioner in
WP No.12874/20.Mian Muhammad Kashif and Mr. Imran Iqbal,
Advocates for the Petitioner in WP No.14620/20.**Respondents By**

Ms. Ambreen Moeen, DAG.

Mr. Akhtar Javed, Additional Advocate General,
Punjab.Chaudhary Muhammad Umar, Advocate for
Respondent PMDC on Court's call.Mr. Imran Muhammad Sarwar, Advocate for
Respondent UHS along with Dr. Allah Rakha, TeamLeader Admissions, Hassan Raza Abidi, Deputy
Registrar, Zahid Mehmood, Assistant Registrar (Legal)and Hamza Izhar Malik, Manager Litigations (Legal)
UHS.Mr. Javed Bashir, Advocate for Applicant in CM No.3
and 4 of 2020.Ch. Ali Muhammad, Advocate for Applicant in CM
No.5/2020.Ms. Mahjabeen Abbasi, Advocate vice Mr. Muhammad
Ahmad Qayyum, Advocate for Applicant in CM No.6
and 24 of 2020.Rai Faisal Tufail Kharal, Advocate for Applicant in CM
No.7/20.Barrister Haroon Dugal and Mrs. Samia Khalid
Advocates for Applicant in CM No.8, 9, 10, 11 and 22
of 2020.

Mr. Abid Saqi and Ms. Sabahat Rizvi, Advocates for



Applicant in CM No.12 and 15 of 2020.
Mr. Khalid Jamil, Advocate for Applicant in CM No.13/20.
Mr. Kamran Hashmat, Advocate for Applicant in CM No.14/20.
Rana Muhammad Asif, Advocate for Applicant in CM No.16 and 17 of 2020.
Mr. Muhammad Naveed Shabbir Goraya, Advocate for Applicant in CM No.18/20.
Mr. M. Asad Manzoor Butt, Advocate for Applicant in CM No.19/20.
Mr. Saif ul Malook, Advocate for Applicant in CM No.20 and 21 of 2020.
Mr. Waheed Afzal Malik, Advocate for Applicant in CM No.23/20.
Mr. Tariq Dogar, Advocate for Applicant in CM No.25/20.
Mr. Nusrat Ali Joyia, Advocate for Applicant Pakistan Medical Association, Lahore in CM No.26/20.
Mr. Imtiaz Noor Malik, Advocate for Applicant in CM No.27/20.

CM Nos.25 and 26 of 2020

These are applications filed by the Applicants under Order 1 Rule 10 Civil Procedure Code, 1908 for impleadment as Respondents in the titled petition.

2. Notice.

CM No.28/2020

3. Dispensation sought for is allowed subject to all just and legal exceptions. CM stands disposed of.

Main Case

4. On behalf of UHS, Dr. Allah Rakha, Team Leader Admissions has placed before the Court revised Provisional 8th Selection List for MBBS and Provisional 7th Selection List for BDS.

5. As per the explanation provided, there are a total 3327 seats in the private medical colleges out of which 2501 students have been placed as per their preferred choice. 826 candidates have been placed as per the forced placement lists made by the PMC and the UHS. As to the



BDS he states that there are a total 824 BDS seats out of which 620 students have been placed as per their preferred choice. 204 candidates have been placed as per the forced placement lists made by the PMC and the UHS. He states that in terms of the instructions provided by this Court in the last order dated 13.3.2020 approximately 717 MBBS students and 178 BDS students may be displaced as per the merit. He further explained that this displacement is consequent to three reasons:

- (i) Candidates with upward change in merit, meaning candidates who will be given the option to move to a college of higher merit;
- (ii) Candidates with downward revision of merit, meaning candidates who are currently in a college of higher merit then their merit will be moved to a college of their merit;
- (iii) Candidates who have left the system either to join any other medical college outside of the UHS Central System or other reason. For ease of reference these candidates will be called non-joiners.

6. He has also clarified that with reference to the majority of the Petitioners before the Court, if at all there is any displacement consequent to the lists provided, it is on account of their higher merit. Hence they can be given the option to move to a college of higher merit. So far as the Applicants who have filed the applications under Order 1 Rule 10 Civil Procedure Code, 1908 there will be some displacement on account of higher merit, lower merit or non-joiners. Further states that some candidates will remain where they are, however he is unable to provide the specific number as he does not know how the candidates wish to

1

exercise their option nor does he have the exact number for non-joiners.

7. During the course of the hearing, learned counsel for the Petitioners and the Applicants were all given an opportunity to place their issues before the Court.

8. Keeping in mind the volume of students, in order to ascertain the outcome of this exercise so far as the 8th Selection List of MBBS or 7th Selection List of BDS, the following directions are given:

- (a) UHS is to publish the Provisional 8th Selection List for MBBS revised to the extent of forced placement and the Provisional 7th Selection List for BDS, revised to the extent of forced placement by the end of business tomorrow that is before 5 PM on 18.3.2020;
- (b) It is clarified that these are provisional lists and are not to be acted upon for the purposes of displacement and are therefore for the purposes of exercise of option by the candidates.
- (c) All candidates will be given a chance to exercise options in the following terms:
 - (A) Candidates who want to move to the college of their higher merit can exercise the option to move to the college of higher merit;
 - (B) Candidates who want to stay at their college can exercise the option to remain at the existing college, irrespective of displacement on account of higher or lower merit;
 - (C) Candidates who fall in the category of non-joiners may communicate that they are non-joiners as they are no longer interested in their seats. For ease of reference for the purposes of



UHS, it is clarified that if a non-joiner does not respond in any manner it will be deemed that such candidate is no longer interested in the seat that is displayed in the Provisional Selection List.

- (D) Candidates will be given three days to exercise their choice being 19th, 20th and 21st March, 2020. For the benefit of the candidates UHS is also to publish the merit of all colleges in the Punjab, as it was on 31.12.2019. These lists should also be displayed by end of business tomorrow that is 18.3.2020 before 5 PM;
- (E) UHS is to commence tabulation of the revised provisional merit list in terms of the choice exercised by all candidates after the 21st March 2020 to be presented before the Court on 26.3.2020.

9. Dr. Allah Rakha, Team Leader Admissions, UHS has also pointed out that the MBBS/BDS merit list displayed on 29.1.2020 have been done on the basis of the instructions given by the PMC that all candidates whose preferences, even lower in merit may be adjusted against vacant seats for MBBS and BDS.

10. In terms of what was explained the impact of this exercise is that candidates with higher merit not only as per the preference but also in terms of forced placement have been deprived of their placement as per the merit and those candidates in the waiting list who in all likelihood would not have been given admission, have been placed wrongfully on the basis of their preferred choice in the merit list displayed on 29.1.2020. Therefore UHS is directed to highlight these candidates who were shifted

[Handwritten signature]

through the waiting list on 29.1.2020 in contravention to the given merit on the next date of hearing.

11. For the purposes of the next date of hearing, UHS will provide the following:

- (i) The data with respect to exercise of option of candidate as per the direction of the Court;
- (ii) Sample provisional lists on the basis of the option exercised by the candidates in order to highlight the ratio of adjustment and displacement as per the choice of the candidates;
- (iii) Highlight those candidates who have been placed from the waiting list as per their preferred choice of 29.1.2020 against the merit of the college. For the purposes of information the name of these candidates may be highlighted in the list that will be displayed so that those candidates are also made aware of the fact that this issue will be taken up on the next date of hearing.

12. It has also been pointed out that two colleges namely Wateen Medical College, Rawalpindi and Azra Naheed Dental College, Lahore have issued special lists on the basis of the Minutes Of Meeting of the PMC dated 30.11.2019. The issue before the Court is also with respect to the merit of these colleges. These colleges were not in the option of choices for candidates and all candidates placed in these lists are forced placement from the waiting list. Hence there is a chance that merit has not been taken into consideration while placing these candidates in their respective colleges. Therefore UHS is directed to consider these two lists for the purposes of the forced placement and adjust candidates



giving them the option for upward movement as per their merit, if that choice is available to the candidates.

13. To come up for further proceedings on 26.3.2020.



(AYESHA A. MALIK)
JUDGE

laktan*